Supreme Court, U.S.
FILED

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No. _____

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In the
Supreme Court of the United States

Bryan County Board of Equalization,

Petitioners,

v.

Bryan County Board of Tax Assessors,

Respondent.

On Petition for Writ of Certiorari
To the Supreme Court
Of the State of Georgia

Petition for Writ of Certiorari

Ray C. Smith
Counsel of Record
10153 Ford Avenue
Richmond Hill, GA 31324
Telephone (912) 756-3318

Attorney for Petitioners

9 pp

QUESTION PRESENTED

1. Is a Georgia Board of Equalization exempt from the Georgia Sunshine Law while it deliberates on a tax appeal case presented to it?

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PETITION FOR WRIT OF CERTIORARI

The Bryan County Board of Equalization, a Georgia Board of Equalization created pursuant to a statute of the State of Georgia, O.C.G.A. § 48-5-311, appendix pages 1-22, petitions the Court for the Writ of Certiorari, to review a final decision of the Court of Last Resort in the State of Georgia, the Georgia Supreme Court.

OPINION BELOW

Petitioners timely moved for Certiorari in the Georgia Supreme Court, which was denied, with all Justices concurring on June 10, 2002 in an Order reported at 2002 Ga. LEXIS 496, appendix page 34. Petitioners thereafter moved for Reconsideration, which was denied by the Georgia Supreme Court on July 12, 2002 in an unpublished opinion, with one (1) Justice dissenting, appendix page 35.

JURISDICTION

Petitioners request that this Court exercise its discretion in hearing this appeal because a State

Court of Last Resort has decided a question in a manner that conflicts with the right of a jury to conduct its deliberations in a closed and private setting, thereby threatening the backbone of our jurisprudence.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED IN THIS CASE

The Georgia Sunshine Law, O.C.G.A. § 50-14-1, appendix pages 36-41, the Statutory Exemptions, O.C.G.A. § 50-14-3, appendix pages 42-44, and the Georgia Statute creating Boards of Equalization, O.C.G.A. § 48-5-311, appendix pages 1-22.

STATEMENT OF THE CASE

The Bryan County Board of Equalization heard a tax appeal involving the valuation of the property of a taxpayer for ad valorem tax purposes. The Board heard all of the evidence and argument of the parties in an open hearing, and thereafter, conducted its deliberations in private, as a jury, and then published it decision. The local Board of Tax Assessors took the position that under Georgia's Sunshine Law, the Board was required to conduct even its deliberations and voting in public, and thereafter moved for injunction in the Bryan County

Superior Court, ultimately resulting in the decision for which Certiorari is sought.

ARGUMENT

The position of the Petitioner is that the right of a jury to deliberate in private is shared by the Board of Equalization when it is deciding a tax appeal. Petitioner urges that this right should be recognized because the quasi judicial capacity of a Board of Equalization has been recognized by the State of Georgia, see Grand Partners Joint Venture I v. RealTax Resource, Inc., 225 Ga.App. 409, 483 S.E.2d 922 (1997). Further, the Georgia Courts have recognized the authority of Boards of Equalization to fashion a remedy in tax appeals before them, see Bouy v. Kiley, 238 Ga. 47, 230 S.E.2d 861 (1976). However, despite these holdings, the State Courts now demand that these judicial functions be performed in the very presence of the litigants whose fate the Board must decide. The Courts appear to base this decision around the fact that the exemptions provision of the Georgia Sunshine Law does not contain a specific statutory provision for a

Board of Equalization, and refuse to create a judicial exemption for the Boards. And, the Court persist in this position despite the fact that the Georgia Supreme Court gave almost identical protections to a student Court at the University of Georgia, see Red & Black Publishing Company, Inc., et al. v. Board of Regents, et al., 262 Ga. 848, 427 S.E.2d 257 (1993).

Thus, in Georgia, Boards of Equalization are being compelled to deliberate and vote in the very presence of those whose fate they must decide. While admittedly this is a question only concerning Georgia, the Court is asked to look deeper. Among several states, the authority appears to be split. In a majority of the states, there are indeed similar Boards deciding similar questions, and there appears to be no definite pattern among the states as to the recognition of their quasi judicial capacity. Thus, the significance of the problem is two fold: there should be a clear cut directive, that only this Court can issue, protecting the integrity of such quasi judicial bodies nationwide, and nothing should be allowed to erode away the privileges of jurors in our land.

CONCLUSION

Petitioners respectfully pray that the Court grant this, its Petition for Writ of Certiorari, and ultimately grant relief accordingly.

Respectfully submitted,

RAY C. SMITH,
Attorney for Petitioners
10153 Ford Avenue
Richmond Hill, GA 31324
(912) 756-3318